

BOARD OF APPEALS CASE NO. 5009

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BEFORE THE

APPLICANT: Ginger Kilby

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ZONING HEARING EXAMINER

**REQUEST: Special Exception to allow a
Personal Care Boarding Home in the AG
District; 4303 Conowingo Road, Darlington**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 12/29/99 & 1/5/00

HEARING DATE: March 1, 2000

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Record: 12/31/99 & 1/7/00

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Ginger Kilby (not "Kelly" as listed on the Staff Report and mistyped on the Board of Appeals Application), is seeking a Special Exception pursuant to Section 267-53(F)(8) of the Harford County Zoning Code, to allow an existing Personal Care Boarding Home in an Agricultural District.

The subject property is located at 4303 Conowingo Road, Darlington, in the Fifth Election District. The parcel is more specifically identified as Parcel 229, in Grid 3A, on Tax Map 20. The property is approximately one (1) acre in size, all of which is zoned AG Agricultural. The property is currently owned by Ms. Linda Stoltz, P.O. Box 829, Forest Hill, Maryland, but the Personal Care Boarding Home is being operated by the Applicant, Ms. Ginger Kilby, who resides at 1623 Castleton Road, Darlington, Maryland. According to the application, the Applicant is in the process of purchasing the property from Ms. Stoltz.

Ms. Kilby appeared and testified that the dwelling on the subject property has been operating as a Personal Care Boarding Home for the elderly for the past ten years. The property is currently owned by Linda Stoltz, though Ms. Stoltz does not live on the site. The Applicant took over operation and management of the home in June of 1999, approximately eight months ago. There are currently several employees who work at the home, but only two employees usually work at one time, with one employee working a 24 hour shift and one working only during usual business hours. Ms. Kilby testified that there are usually 3 or 4 vehicles parked at the home at any given time, those vehicles belonging to residents, family members or staff.

Case No. 5009 - Ginger Kilby

There is not much vehicle traffic in and out and the vehicles are usually parked behind the house. The elderly residents of the home are not very active, according to Ms. Kilby, spending their time outside on the porch and rarely walking around the property. There is a handicap-access ramp located on the side of the home and the number of boarders at any given time is limited to eight (8) people. It was Ms. Kilby's testimony that the operation of the home did not have any adverse impact on the surrounding properties or the neighborhood and that the home has been operating with no apparent problems or difficulties for some time.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified as to the findings and recommendations of the Department. According to Mr. McClune, the property has been the subject of two prior special exception requests over the past several years, both of which had been granted to allow the operation of a Personal Care Boarding Home. However, both the prior requests were granted with the condition that the special exception was limited to the particular Applicant and would terminate if the Applicant sold or transferred the property. In one of the prior cases, a request was made to construct an addition on the dwelling to increase the number of boarders who would be allowed to reside at the home, but that addition was never built. The home currently has eight boarders, well within the maximum that would be allowed on a parcel of this size. The Department is recommending approval of the request based upon its finding that the Applicant can meet all guidelines and standards set forth by the Code.

No witnesses appeared in opposition to the request.

CONCLUSION:

The Applicant is requesting a Special Exception to Section 267-53(F)(8) of the Harford County Code, to allow for the continued operation of a Personal Care Boarding Home. The business has been in existence on the site for over ten years based upon the grant of two prior special exceptions to the two previous owners of the property.

Case No. 5009 - Ginger Kilby

Section 267-53(F)(8) provides:

Personal-care boarding homes. These uses may be granted in the AG, RR, R, R1, R2, R3, R4, RO, VB and VR Districts, provided that:

- (a) The proposed use shall be located in a single-family detached dwelling.**
- (b) The proposed use meets the minimum lot size requirements for a conventional single-family residence in the district where located.**
- (c) A maximum density of one (1) boarder per two thousand (2,000) square feet of lot area shall be maintained.**
- (d) Adequate off-street parking shall be provided.**
- (e) Where an application is for construction of a new dwelling, the building shall be similar in appearance to other single-family dwellings in the neighborhood.**

The uncontradicted evidence offered by the Applicant and the Department of Planning and Zoning demonstrates that the personal care boarding home is located in a single-family detached dwelling, that the proposed use meets the minimum lot requirement for a conventional single-family residence in the district at the time the lot was created, that the request does not exceed the maximum density of one boarder per 2,000 square feet of lot area, and that there is adequate off-street parking available for staff, residents and visitors to the home. The application does not include a request for construction of a new dwelling. There was no testimony or other evidence introduced that would suggest that a granting of the proposed special exception would create an adverse impact as outlined in Section 267-9(I), "Limitations, Guides and Standards," of the Code.

It is also clear from the evidence presented that approval of the proposed special exception at the subject location will not have a greater impact than if it were approved elsewhere in the zoning district based upon the fact that a personal care boarding home has been in operation on this site for approximately 14 years.

Case No. 5009 - Ginger Kilby

It is the recommendation of the Hearing Examiner that the requested Special Exception be approved, subject to the following conditions:

1. The maximum number of boarders shall be limited to eight (8);
2. The Applicant shall obtain a new zoning certificate for the use;
3. The Applicant shall takes steps to complete the purchase of the property from the current property owner without undue delay.

Date APRIL 7, 2000

Valerie H. Twanmoh
Zoning Hearing Examiner